



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

SEP - 2 2015

URGENT LEGAL MATTER

PROMPT REPLY NECESSARY

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

John Visceglia, Jr.
429 Delancy Associates LLC
c/o Summit Associates Inc.
Raritan Plaza 1
Raritan Center
Edison, NJ 08818

Re: Request for Information Pursuant to Section 104 of CERCLA
Pierson's Creek Superfund Site

Dear Mr. Visceglia:

The United States Environmental Protection Agency ("EPA") is charged with responding to the release or threatened release of hazardous substances, pollutants, and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, ("CERCLA"), 42 U.S.C. § 9601 *et seq.* (also known as the "Superfund" law). For your information, a copy of the Superfund law may be found at www.epa.gov/superfund/action/law/index.htm.

This letter seeks your cooperation in providing information and documents relating to the property your company owns at 429 Delancy Street located within the Pierson's Creek Superfund Site (the "Site") in Newark, Essex County, New Jersey. EPA encourages you to give this letter your immediate attention. A complete and truthful response should be provided to the attached Request for Information **within 30 days** of your receipt of this letter.

EPA has documented the release and threatened release of hazardous substances into the environment at the Site when it performed preliminary studies before listing the Site on the NPL.

While EPA seeks your cooperation in this investigation, compliance with the Request for Information is required by law. When you have prepared your response to the Request for Information, please sign, and have notarized, the enclosed "Certification of Answers to Request for Information", and return that Certification to EPA along with your response. Please note that false, fictitious, or fraudulent statements or representations may subject your company to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes EPA to pursue penalties for failure to comply with a Request for Information.

Some of the information EPA is requesting may be considered by your company to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following

the procedures described in the Instructions section which follows this letter, including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the hazardous substances at the Site, that information should be submitted within the time frame noted above.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by this Request for Information, it is necessary that you promptly notify EPA. This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

See the enclosed Instructions for information on how to respond to the enclosed questions and/or information requests. Your response to this Request for Information should be mailed to:

Pamela Tames, P.E.
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region 2
290 Broadway, 20th Floor
New York, New York 10007

A copy of your reply should be sent to

Amelia Wagner, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, New York 10007

If you have any questions regarding this Request for Information, or would like to discuss this matter with EPA, please contact Ms. Tames at (212) 637-4255. Inquiries from attorneys should be addressed to Ms. Wagner at (212) 637-3141.

We appreciate and look forward to your prompt response to this matter.

Sincerely yours,

A handwritten signature in cursive script, reading "Nicoletta DiForte".

Nicoletta DiForte, Deputy Director for Enforcement
Emergency and Remedial Response Division

Enclosure

cc: Marcie Horowitz, Esq., Cole Schotz
Martin McHugh, McHugh Environmental Assoc.

Instructions for responding to request for information

A. Directions

1. A complete and separate response should be given for each question. For each question contained in this letter, if information or documents responsive to this information request are not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Identify each answer with the number of the question and the subpart to which it responds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
3. Provide responses to the best of your company's ability, even if the information sought was never put down in writing or if the written documents are no longer available. Consult with all present and past employees and agents of your company whom you have reason to believe may be familiar with the matter to which the question pertains.
4. In answering each question, identify each individual and any other source of information (including documents) that were consulted in the preparation of the response to the question.
5. If additional information or documents responsive to this Request becomes known or available to you after you respond to this Request, EPA hereby requests pursuant to CERCLA Section 104(e) that your company supplement its response to EPA within 30 days from the date such information or documents became available to it.
6. If you have reason to believe that an individual other than one employed by your company may be able to provide additional details or documentation in response to any question, state that person's name, last known address, phone number, and the reasons for your belief.
7. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages, and all recipients of the documents with their addresses.
8. If anything is omitted from a document produced in response to the Request for Information, state the reason for, and the subject matter of, the omission.
9. If you cannot provide a precise answer to a question, please approximate but, in any such instance, state the reason for your inability to be specific.
10. Whenever this Request for Information requests the identification of a natural person, or other entity, the person or entity's full name and present or last known address also should be provided.

11. Confidential Information. The information requested herein must be provided even though your company may contend that it includes confidential information or trade secrets. Your company may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), Section 3007(b) of RCRA, 42 U.S.C. § 6927(b), and 40 C.F.R. § 2.203(b).

If you make a claim of confidentiality for any of the information your company submits to EPA, your company must prove that claim. For each document or response your company claims is confidential, your company must separately address the following points:

1. the portions of the information alleged to be entitled to confidential treatment;
2. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
3. measures taken by your company to guard against the undesired disclosure of the information to others;
4. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
5. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
6. whether your company asserts that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that your company satisfactorily show that it has taken reasonable measures to protect the confidentiality of the information and that it intends to continue to do so, and that it is not and has not been obtainable by legitimate means without your company's consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to your company.

B. Definitions

1. The term "person" shall include any individual, firm, unincorporated association, partnership, corporation, trust, or other entity.
2. The term "Site" shall mean the Pierson's Creek Superfund Site located Newark, Essex County, New Jersey.
3. The term "Company" shall mean 429 Delancy Associates LLC and its predecessors, successors, subsidiaries, divisions, branches, officers, managers, employees, contractors, trustees, partners, assigns or agents.
4. The term "waste" or "wastes" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances including, pollutants, or contaminants, whether solid, liquid, or sludge, including but not limited to containers for temporary or permanent holding of such wastes.
5. The term "hazardous substances" shall have the same definition as that contained in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and includes any mixtures of such hazardous substances, products or other nonhazardous substances.
6. The term "industrial waste" shall mean any solid, liquid or sludge or any mixture there of which possesses any of the following characteristics:
 - a. it contains one or more hazardous substances (at any concentration) as defined in 42 U.S.C. § 9601(14);
 - b. it is a "hazardous waste" as defined in 42 U.S.C. § 6903(5);
 - c. it has a pH less than 2.0 or greater than 12.5;
 - d. it reacts violently when mixed with water;
 - e. it generates toxic gases when mixed with water;
 - f. it easily ignites or explodes;
 - g. it is an industrial waste product;
 - h. it is an industrial treatment plant sludge or supernatant;
 - i. it is an industrial byproduct having some market value;
 - j. it is coolant water or blowdown waste from a coolant system;
 - k. it is a spent product which could be reused after rehabilitation; or
 - l. it is any material which you have reason to believe would be toxic if either ingested, inhaled or placed in contact with your skin.
7. The term "pollutant or contaminant" shall have the same definition as that contained in Section 101(33) of CERCLA, 42 U.S.C. § 9601(33), and includes any mixtures of such pollutants or contaminants with any other substances. Petroleum products mixed with pollutants and contaminants are also included in this definition.

8. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known employer and business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, occupation, position or business.
9. With respect to a company, corporation, partnership, business trust or other association or business entity (including a sole proprietorship) the term "identify" means to provide its full name, address, and affiliation with the individual and/or company to whom this request is addressed.
10. The term "document" and "documents" includes any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, all prior drafts, and all non-identical copies.
11. The term "arrangement" means every separate contract or other agreement between two or more persons, whether written or oral.
12. The term "material" or "materials" shall mean any and all objects, goods, substances, or matter of any kind, including but not limited to wastes.
13. The term "real estate" shall mean and include, but not be limited to the following: land, buildings, a house, dwelling place, condominium, cooperative apartment, office or commercial building, including those located outside the United States.
14. The term "release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, and other closed receptacles containing any hazardous substance or, pollutant, or contaminant.
15. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or RCRA, in which case the statutory definitions shall apply.

12. Did the Company perform any studies or investigations on the property at or before the time the Company acquired the property. Please provide the results of any studies or investigations that your Company performed at the property if not already provided to EPA. If already provided to EPA, so state.
13. Prior to acquiring the property what inquiries did the Company make into the previous ownership and uses of the property? Does the Company contend that it made all appropriate inquiries into the previous ownership and uses of the property in accordance with generally accepted good commercial and customary standards and practices? If so, explain in detail citing the standards and practices that the Company followed prior to acquiring the property.
14. If the Company has conducted any assessments, investigations, or cleanup of hazardous substances or wastes at the property, please identify all environmental contractors and consultants and describe the remediation/action that was conducted or planned to conduct at the property and the date(s) that the action(s) took place. Provide copies of all letters, reports, and conclusions issued by the contractors and consultants regarding the property, including the names of the wastes that were disposed of and the location where found on the property if not already provided to EPA.
15. Identify any and all leaks, spills, or releases into the environment of any hazardous substances, pollutants, or contaminants that have occurred at or from the property. In addition, identify:
 - a) When such releases occurred;
 - b) How the releases occurred;
 - c) The amount of each hazardous substances, pollutants, or contaminants so released;
 - d) Where such releases occurred;
 - e) Whether the releases affected any surface water or if they were released to any storm drains;
 - f) Any and all activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release;
 - g) Any and all investigations of the circumstances, nature, extent, or location of each release or threatened release including the results of any soil, water (ground and surface), or air testing undertaken; and
 - h) All persons with information relating to these releases.
16. Has there ever been a spill, leak, release, or discharge of hazardous substances into any subsurface disposal system, septic system, or floor drain inside or under any building or foundation slab on the property? If the answer to the preceding question is anything but an unqualified "no", identify:
 - a) Where the disposal system, septic system, or floor drains were located;
 - b) When the disposal system, septic system, or floor drains were installed
 - c) Whether the disposal system, septic system, or floor drains were connected to pipes;
 - d) Where such pipes were located and emptied;
 - e) When such pipes were installed;
 - f) Who and when such pipes were replaced, or repaired; and

REQUEST FOR INFORMATION

1. State your company's full legal name and mailing address.
2. State the name and address of the President and the Chief Executive Officer of the Company.
3. If the Company is a subsidiary of another corporation, identify such other corporation and state the name and address of that corporation's President and the Chief Executive Officer. Provide such information for any further parent/subsidiary relationships. Identify any successor corporations or other entities of the Companies. Provide all documents related to any subsidiary or successor agreements/relationships.
4. Identify the state and date of incorporation and agent for service, for each entity identified in your response to Questions 1 and 3 above.
5. Does the Company own the property where it is located? If yes, specify the date the property was acquired. If the company does not own the property, please state the name and address of the current property owner and the Company's relationship with them.
6. Describe in detail how the Company came to own the property and the length of time the Company has owned the property. Provide any lease agreements and property relationship documents, if applicable. Provide all information with regards to the Company's occupation of the property.
7. At the time the property was acquired, were any businesses or entities operating at the property? If yes, state the name, current address, and the operations that the business or entity conducted on the property.
8. Provide a detailed physical description of the property at the time it was acquired, e.g., were there existing buildings, etc.? Was there any residual contamination in any buildings or on the ground?
9. Was an inspection made of the property at the time it was acquired to determine if there were any underground tanks or vessels located on the property? Has any inspection been done since acquiring the property to find any underground tanks or vessels?
10. Was an inspection made of the property at the time it was acquired to determine if there were any underground pipes located on the property and where those pipes discharged to? Has any inspection been done since acquiring the property to find any underground pipes and was any determination made as to where those pipes discharge to?
11. If any underground tanks, vessels or pipes were found, were samples taken of the insides of the tanks, vessels or pipes? Please provide any sampling results.

g) Whether such pipes ever leaked or in any way released hazardous substances into the environment.

17. Describe all steps your Company has taken since acquiring the property to prevent or limit any human, environmental, or natural resource exposure to any previously released hazardous substances that exist on the property.
18. Identify all individuals with knowledge of facts relating to the responses provided to this Request for Information. Identify each individual who assisted or was consulted or who answered on behalf of the Company in the preparation of its response to this Request for Information, and specify the question with which each person assisted responding.
19. Do you have any additional information or documents that may help EPA identify other companies that may have been the source of, or otherwise responsible for, the hazardous substances or industrial wastes that came to be located at the Site? If yes, please provide that information and those documents and identify the source(s) of your information.
20. Please identify all individuals (other than those identified in your response to Question 18) who may have information or documents relating to the generation, handling, storage, transportation, or disposal of hazardous substances that came to be located on the property.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

Pierson's Creek Superfund Site, Newark, Essex County, New Jersey

State of _____:

County of _____:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement my response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me.

NAME (print or type)

TITLE (print or type)

SIGNATURE

Sworn to before me this
day of _____, 2015

Notary Public